

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kaitlin Campbell	Team: Squad #14	CCRB Case #: 201700682	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 01/20/2017 12:56 AM	Location of Incident: 8th Avenue and Flatbush Avenue; New York Presbyterian Hospital; 78th Precinct stationhouse	Precinct: 78	18 Mo. SOL 7/20/2018	EO SOL 7/20/2018	
Date/Time CV Reported Fri, 01/20/2017 4:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/26/2017 11:29 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Joseph Runfolo	3526	949588	078 PCT
2. POM Juan Natal	21602	952046	078 PCT
3. POM Frederick Alleyne	00312	948609	078 PCT
4. POM Eric Rosario	14992	949575	078 PCT
5. Officers			078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frederick Alleyne	Abuse: Police Officer Frederick Alleyne threatened § 87(2)(b) with the use of force at 8th Avenue and Flatbush Avenue in Brooklyn.	
B.POM Frederick Alleyne	Force: Police Officer Frederick Alleyne used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
C.POM Frederick Alleyne	Force: Police Officer Frederick Alleyne restricted § 87(2)(b)'s breathing at 8th Avenue and Flatbush Avenue in Brooklyn.	
D.POM Frederick Alleyne	Discourtesy: Police Officer Frederick Alleyne spoke discourteously to § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
E.POM Frederick Alleyne	Force: Police Officer Frederick Alleyne used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
F.SGT Joseph Runfolo	Force: Sergeant Joseph Runfolo used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
G.POM Juan Natal	Force: Police Officer Juan Natal used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
H. Officers	Force: Officers used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.	
I.POM Eric Rosario	Discourtesy: Police Officer Eric Rosario spoke discourteously to § 87(2)(b) at § 87(2)(b)	

### Case Summary

On January 20, 2017, Sergeant Joseph Runfola of the 78th Precinct called the Internal Affairs Bureau to document that force was used while taking § 87(2)(b) and § 87(2)(b) into police custody (original log # 02398). This case (log #02855) was received at the CCRB on January 26.

On January 20, 2017, at approximately 12:56 a.m., § 87(2)(b) who was driving a white BMW sedan of which § 87(2)(b) was a passenger, were pulled over by Police Officers Frederick Alleyne and Eric Rosario of the 78th Precinct at the northwest corner of Flatbush Avenue and 8th Avenue for making an illegal U-turn. PO Alleyne told § 87(2)(b) that he and § 87(2)(b) had been drinking and ordered § 87(2)(b) to exit the car. § 87(2)(b) reached over § 87(2)(b)'s lap and rolled up the driver's side window. PO Alleyne allegedly told § 87(2)(b) he would "break [that] fucking window" and "break [his] fucking neck" (**Allegation A**).

PO Rosario and PO Alleyne attempted to remove § 87(2)(b) from the driver's seat. § 87(2)(b) exited the passenger's side door, walked to the driver's side of the car, and placed herself between the officers and § 87(2)(b). PO Alleyne ordered § 87(2)(b) to step away. The officers removed § 87(2)(b) from the car and handcuffed him. PO Alleyne allegedly pulled § 87(2)(b)'s arms behind her back, lifted her up and pressed her torso against the trunk of her car (**Allegation B**). PO Alleyne allegedly pressed both of his elbows into the middle of § 87(2)(b)'s upper back and pressed her chest against the car, and § 87(2)(b) allegedly could not breathe (**Allegation C**). § 87(2)(b) asked PO Alleyne if this was how he treated a woman and he allegedly said he did "not give a fuck who—man, woman, or child—[she was]" (**Allegation D**).

PO Alleyne handcuffed one of § 87(2)(b)'s wrists. About four additional officers—including Sergeant Joseph Runfola and Police Officer Juan Natal of the 78th Precinct—allegedly arrived and assisted PO Alleyne with handcuffing § 87(2)(b)'s arms by twisting her arms behind her back, resulting in pain (**Allegations E, F, G, and H**). § 87(2)(b) sat on the ground, where she was hyperventilating, crying, and telling the officers she could not breathe.

§ 87(2)(b) was having a panic attack, so Sgt. Runfola requested an ambulance to the location. Emergency Medical Services (EMS) arrived about 10 minutes later and § 87(2)(b) was transported to § 87(2)(b) with PO Rosario, where she was diagnosed with and treated for a panic attack and a sprained shoulder, the latter of which she attributed to the alleged force used against her while she was being handcuffed. § 87(2)(b) complained to PO Rosario that she was arrested and he told her that the police were the "fucking law," and that if she did not like it she could "fucking sue" (**Allegation I**).

§ 87(2)(b) was transported back to the 78th Precinct stationhouse, where she complained to PO Alleyne that she did not know why she was arrested. He allegedly told her he did not "give a fuck" (**within Allegation D**).

§ 87(2)(b) was arrested for § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(a)] was arrested for § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

There is no video evidence in this case.

§ 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not mediation eligible.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- On June 12, 2017, and again on July 11, FOIL request to determine whether [§ 87(2)(b)] or [§ 87(2)(b)] filed a Notice of Claim was submitted and the response will be included in the case file upon its receipt to the agency.

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint for both [§ 87(2)(b)] and [§ 87(2)(b)] (**Board Review 05**).
- Over the course of his six-year tenure with the NYPD, PO Alleyne has been the subject of four CCRB allegations, none of which were substantiated. [§ 87(2)(g)]  
[REDACTED]  
[REDACTED]
- Over the course of his seven-year tenure with the NYPD, PO Rosario has been the subject of one prior CCRB case that was truncated.
- This is the first CCRB complaint for both, Sgt. Runfolo, who has been a member of the NYPD for seven years, and for PO Natal, who has been a member of the NYPD for five years.

### Potential Issues

[§ 87(2)(b)] —victim and witness to the majority of the allegations—provided a brief phone statement but was otherwise unavailable to the investigation (see IAs for contact attempts), and [§ 87(2)(b)]'s statement was given approximately four months after the incident date.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

[§ 87(2)(b)] said five officers “surrounded” her and twister her arms behind her back to rear handcuff her, resulting in injury, but she did not see which officers did so (**Board Review 06**). [§ 87(2)(b)] said he saw four officers surround her, but he did not see what they were doing (**Board Review 07**)(**Board Review 08**). Because PO Alleyne, Sgt. Runfolo, and PO Natal acknowledged participating in this aspect of the incident, Allegations H through J have been pled to them, respectively (**Board Review 09**)(**Board Review 10**)(**Board Review 11**). [§ 87(2)(g)]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### Allegations not pleaded

- [§ 87(2)(g)]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- § 87(2)(g)

**Allegation A – Abuse of Authority: Police Officer Frederick Alleyne threatened § 87(2)(b) with the use of force at 8th Avenue and Flatbush Avenue in Brooklyn.**

In her phone statement, § 87(2)(b) alleged that PO Alleyne threatened to "break § 87(2)(b) s] fucking face" or "fucking neck," and also break the "fucking window." In her in-person statement, § 87(2)(b) alleged PO Alleyne said to § 87(2)(b) "I'll break this fucking window" and "I'll break your fucking neck." During § 87(2)(b)'s phone statement, he alleged that PO Alleyne told him to "get the fuck out of the car" and threatened to break the "fucking window."

PO Alleyne denied making any of the alleged threats and said he never used profanity in the presence of § 87(2)(b) or § 87(2)(b) PO Rosario, the only other person present during this aspect of the incident, denied hearing PO Alleyne make any of the alleged threats. § 87(2)(g)

**Allegations B – Force: Police Officer Frederick Alleyne used physical force against § 87(2)(b) at the intersection of 8th Avenue and Flatbush Avenue.**

**Allegation C – Force: Police Officer Frederick Alleyne restricted § 87(2)(b)'s breathing at the intersection of 8th Avenue and Flatbush Avenue.**

It is undisputed that § 87(2)(b) interfered with the arrest of § 87(2)(b). According to § 87(2)(b), she exited the front passenger side door, walked around the car, and stood between the front driver's side door, which was closed, and PO Alleyne and PO Rosario. § 87(2)(b) tried to calm the officers down and then opened the door herself, at which point PO Alleyne and PO Rosario immediately removed § 87(2)(b) from the car and ordered § 87(2)(b) to step away. PO Alleyne allegedly lifted § 87(2)(b) up and pressed her torso against the trunk of her car so that she was bent forward at a 90-degree angle. § 87(2)(b), who was having a panic attack, had already been experiencing shortness of breath and hot flashes, and the pressure on her chest further restricted her breathing.

§ 87(2)(b) corroborated § 87(2)(b)'s account of this aspect of the incident.

According to PO Alleyne, he decided to arrest § 87(2)(b) because he did not have his license on him and he refused to take a breathalyzer test. § 87(2)(b) "tried to come in between" the officers and § 87(2)(b) at which point he considered her under arrest. § 87(2)(b) smelled of alcohol and flailed her arms. PO Alleyne did not remember whether she made physical contact with the officers. PO Alleyne ordered her to step aside and she refused. PO Alleyne put his right hand somewhere—he did not remember where—on § 87(2)(b)'s body and pushed her to the side. PO Rosario helped PO Alleyne handcuff § 87(2)(b). § 87(2)(b) stood next to the officers, "animated," screaming, and "hovering" over them—interfering with the arrest by preventing the officers from taking § 87(2)(b) to the back of the police car.

PO Alleyne placed § 87(2)(b) in the police car and returned to place § 87(2)(b) under arrest. He did not remember whether he told § 87(2)(b) that she was under arrest. PO Alleyne placed his hand on § 87(2)(b)'s right arm and she tried to pull it away multiple times. PO Rosario tried to take hold of § 87(2)(b)'s left hand. One of the handcuffs slid off of § 87(2)(b)'s wrist. PO Alleyne placed one handcuff on § 87(2)(b)'s right wrist, but was unable to handcuff her left wrist. PO Alleyne denied lifting § 87(2)(b) up off the ground, pressing § 87(2)(b)'s body against

the car, and placing his elbow into § 87(2)(b)'s back. He did not see any officer do any of those things.

According to PO Rosario, PO Alleyne did not make physical contact with § 87(2)(b) to move her out of the way before § 87(2)(b) had been handcuffed (**Board Review 12**). PO Rosario did not see him lift § 87(2)(b) up or press her against the car at any point.

According to § 87(2)(b)'s medical records from § 87(2)(b), § 87(2)(b) arrived to the emergency room with a heart rate of 120 beats per minute and a respiratory rate of 26 breaths per minute and was discharged with normal levels of 108 beats per minute and 18 breaths per minute. § 87(2)(b) denied any pain upon intake, but presented with moderate shoulder pain four hours after her arrival. X-rays indicated that she sustained an “external rotation injury” to her right shoulder that was exacerbated by her heart palpitations (**Board Review 13**)(**Board Review 14**).

§ 87(2)(g)

**Allegation D – Discourtesy: Police Officer Frederick Alleyne spoke discourteously to § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn and at the 78th Precinct stationhouse.**

In her phone statement § 87(2)(b) said that as she was sitting on the sidewalk having a panic attack, she asked PO Alleyne “this is how you treat a woman?” and he allegedly said “I don’t give a fuck who you are—man or woman.” According to her in-person statement, she asked PO Alleyne the same question while she was standing pressed against the trunk and he allegedly said he did not “give a fuck who—man, woman, or child—[she was].” § 87(2)(b) further said that, when she returned from the hospital to the 78th Precinct stationhouse, she complained to PO Alleyne that she did not know why she was arrested and he allegedly told her he “did not give a fuck.” § 87(2)(b) did not mention this allegation in her phone statement (**Board Review 15**).

In § 87(2)(b)'s phone statement, he said he did not remember any officer using profanity aside from what is alleged in Allegation A.

§ 87(2)(g)

**Allegation E – Force: Police Officer Frederick Alleyne used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.**

**Allegation F – Force: Sergeant Joseph Runfola used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.**

**Allegation G – Force: Police Officer Juan Natal used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.**

It is undisputed that § 87(2)(b) resisted the officers’ attempts to place her in handcuffs. In § 87(2)(b)'s in-person statement, she said four additional officers approached her from behind and “[held] and [pulled]” her as PO Alleyne pressed into her back with his elbow, while yelling “stop resisting.” § 87(2)(b) said she remained still and yelled, “You’re hurting me” repeatedly.

§ 87(2)(b) heard § 87(2)(b) yell and saw other officers place him inside the police car. PO Alleyne handcuffed her and he and the four officers began to bring her to the ground when Sgt. Runfolo, identified via investigation, ran to her, told those officers to let her go and called an ambulance. PO Natal, identified via investigation, “held [her] to the side,” had her sit down on the sidewalk, and coached her to slow her breathing. § 87(2)(b) said she could not breathe, kept spitting, could not stand, and felt weak. She had never had a panic attack before this and did not know what was happening.

In addition to PO Alleyne’s narrative, detailed above (see: Allegations B and E), PO Alleyne also said that § 87(2)(b) either “threw herself” or “dropped” to the ground as he and PO Rosario attempted to handcuff her, before any other officers arrived. PO Alleyne knelt on the ground, placed his hands on § 87(2)(b)’s right arm and pulled it toward her left arm. § 87(2)(b) said, “Ow, my arm” and PO Alleyne continued to pull and told her to stop resisting. § 87(2)(b) was breathing “short, interrupted breaths” and “yelling” that she could not breathe and was having a panic attack. PO Alleyne did not remember when he requested Sgt. Runfolo to the location. Sgt. Runfolo arrived about two or three minutes later and immediately helped handcuff § 87(2)(b)’s left wrist.

§ 87(2)(g)  
§ 87(2)(b) PO Rosario said PO Alleyne radioed for back up when § 87(2)(b) first exited the car and PO Alleyne did not place his hands on § 87(2)(b) before backup arrived. After PO Rosario and § 87(2)(b) argued briefly, PO Rosario placed his hand on § 87(2)(b)’s stomach and pushed her to the side in a sweeping motion twice. Sgt. Runfolo and PO Natal arrived and “got § 87(2)(b) out of the way,” but PO Rosario did not remember how. PO Rosario placed § 87(2)(b) in the backseat and saw PO Alleyne, Sgt. Runfolo, and PO Natal surround § 87(2)(b) who was flailing her arms and tensing up. § 87(2)(b) bent down—in a sort of sitting position—and landed on the ground on her buttocks with one handcuff on. She said she could not breathe and was having a panic attack. No officer made physical contact with her at this point.

Sgt. Runfolo said he exited his car and saw § 87(2)(b) on the ground “relatively still,” crying, and breathing heavily. No officer had their hands on her. After conferring with PO Alleyne, Sgt. Runfolo, PO Alleyne, and PO Natal approached § 87(2)(b) and told her she was under arrest. Sgt. Runfolo placed his hands on § 87(2)(b)’s left forearm and § 87(2)(b) tensed up and twisted her arm. Sgt. Runfolo forced her left arm back and connected it to her right arm. PO Natal and PO Alleyne assisted by placing their hands on § 87(2)(b)’s arms and trying to connect them. Sgt. Runfolo requested an ambulance because § 87(2)(b)’s breathing was irregular, she was crying, and she was in a “panicked state.”

PO Natal § 87(2)(g) said, when he arrived, § 87(2)(b) was sitting with her feet stretched straight out in front of her on the curb and PO Alleyne was trying to handcuff her. She was flailing her right arm. PO Rosario was not assisting. PO Natal and Sgt. Runfolo immediately approached to assist. PO Natal knelt on the opposite side of § 87(2)(b) than PO Alleyne was kneeling and Sgt. Runfolo positioned himself behind her. PO Natal took hold of one of § 87(2)(b)’s arms with both of his arms and held it still, PO Alleyne took hold of her other arm and held it still, and Sgt. Runfolo connected her wrists together with the handcuffs already attached to her right arm.

NYPD Patrol Guide, Procedure 221-02 states that members of service will use only the reasonable force necessary to gain control or custody of a subject. In determining whether or not force is reasonable, members of the service should consider actions taken by the subject and whether the subject is actively resisting custody. **(Board Review 02).**

New York State Penal Law 205.30 states that a person is guilty of resisting arrest when she intentionally prevents a police officer from affecting an authorized arrest of herself or another person (**Board Review 01**).

§ 87(2)(g)

**Allegation H – Force: Officers used physical force against § 87(2)(b) at 8th Avenue and Flatbush Avenue in Brooklyn.**

§ 87(2)(g)

**Allegation I – Discourtesy: Police Officer Eric Rosario spoke discourteously to § 87(2)(b)**

**at § 87(2)(b)**

§ 87(2)(b) alleged that she complained to PO Rosario of her arrest while they were at the hospital and he told her there was nothing she could say or do that would matter because they, the police, were the “fucking law,” and that if she did not like it, she could “fucking sue.” § 87(2)(b) did not mention this allegation in her initial phone statement.

PO Rosario acknowledged that he told § 87(2)(b) that the police were the law and that if she did not like it, she could sue, but he denied using the word “fucking” at any point and no interviewed officer heard him do so. § 87(2)(g)

Squad: 14

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date